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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/608,989 | 06/27/2003 | Michael D. Kotzin | CS22156RL/10-160 | 6421 |
| 51874 | 7590 | 10/05/2005 | EXAMINER | |
| LAW OFFICES OF CHARLES W. BETHARDS, LLP P.O. BOX 1622 COLLEYVILLE, TX 76034 | | | | KNEPPER, DAVID D |
| | | ART UNIT | | PAPER NUMBER |
| | | 2654 | | |

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------------|-------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/608,989 | KOTZIN, MICHAEL D. | |
| | Examiner David D. Knepper | Art Unit 2654 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

1. Applicant's correspondence filed 25 July 2005 has been received and considered. Claims 1-30 are pending. Claims 30 and 31 were effectively renumbered as claims 29 and 30, respectively.
2. The applicant's amendment to the claims (25 Jul 2005) has overcome the rejections under 35 USC 112. The clarity has been improved with additional antecedents but the applicant has made no attempt to narrow the claims to overcome the original interpretation of claim language nor the prior art of record as argued by the applicant on page 13 (25 Jul 2005 response) in stating that the claims are amended "...without impacting the scope of the claims as originally filed." Thus, the terminology "subscriber device" is as deliberately broad as the previously used term "communications unit".
3. Applicant's arguments (25 Jul 2005 response) regarding claims 1-3, 6, 7, 12-14, 7, 18, 23, 24 and 26 only make specific reference to claims 1, 12 and 23 whereby the argument is limited to the ability to "aiding a given subscriber unit or control thereof". To the contrary, aiding a subscriber would clearly read upon the electronic assistant or agent of Miner as noted in the previous Office Action mailed 25 April 2005.

The argument on page 16 (25 Jul 2005 response) that Miner fails to teach the claimed subject matter because he teaches the use of what the applicant characterizes as "dumb" devices such as simple telephones 92 and pagers 114 is not persuasive. First, the applicant's claims only require that a subscriber device be capable of receiving a message comprising "spoken

instructions". Since it is common for telephones to include microphones, they are more than sufficient to receive spoken or other audible input as claimed. Second, Miner does not limit his connections to simple devices but clearly teaches in column 11, lines 51-53 that the system can also establish connections to a Wide Area Network (WAN) or a Local Area Network (LAN) 104... One of ordinary skill in the art would realize that networks may comprise a wide variety of sophisticated communications and computer equipment, which obviates the applicant's argument to the contrary. Third, the rejection is not limited to a single reference but also includes Ladd who teaches (similar to Miner) in col. 2, lines 40-45 that users can include, but are not limited to, cellular...wireline... portable phone... computer network subscribers... Therefore, it is clear that the applicant has failed to properly address the actual teachings of the prior art of record, instead focusing on two elements out of only one reference instead of considering what the prior art would teach, as a whole, to one of ordinary skill in the combined arts of computers, communication and speech signal processing upon which the prior art of record relies.

No further arguments are presented on pages 17-18. The applicant merely states in broad terms that the additional prior art does not show features of the other claims. The applicant has failed to address the further limitations of claims 8-11, 19-22 (for which Lucent was added) and also for claims 4, 5, 15, 16 and 25 (for which Newton was added). Instead, the applicant relies on the arguments regarding claims 1-3, 6, 7, 12-14, 7, 18, 23, 24 and 26.

4. The claims remain rejected under 35 USC 103. The applicant is referred to the previous Office Action mailed 25 April 2005 in addition to the arguments above with the exception that claims 30, 31 are now claims 29 and 30, respectively.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

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Effective 14 January 2005, except correspondence for Maintenance Fees, Deposit Accounts (see 37 CFR 1.25(c)(4)), and Licensing and Review)see 37 CFR 5.1(c) and 5.2(c)), please address correspondence delivered by other delivery services (i.e. – Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

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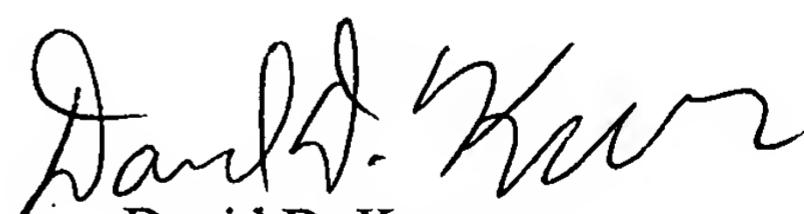
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Knepper whose telephone number is (571) 272-7607.

The examiner can normally be reached on Monday-Thursday from 07:30 a.m.-6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil, can be reached on (571) 272-7602.

For the Group 2600 receptionist or customer service call (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028 between the hours of 6 a.m. and midnight Monday through Friday EST, or by email at ebc@uspto.gov. For general information about the PAIR system, see <http://pair-direct.uspto.gov>.


David D. Knepper
Primary Examiner
Art Unit 2654
September 21, 2005